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UNCLAS SECTION 01 OF 03 PHNOM PENH 001264

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SENSITIVE  
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STATE FOR EAP, EAP/MLS, DRL/IL--MARK MITTELHAUSER, AND  
EAP/TPP/ABT THOMAS LERSTEN  
LABOR FOR ILAB--JIM SHEA AND JONA LAI  
GENEVA FOR RMA  
STATE PLEASE PASS TO USTR--BARBARA WEISEL AND DAVID BISBEE

E.O. 12958: N/A

TAGS: [ELAB](#) [ECON](#) [PGOV](#) [CB](#)

SUBJECT: CAMBODIA: FELONY CHARGES TO BE DROPPED AGAINST  
UNION LEADERS

11. (SBU) SUMMARY: A labor dispute threatened to erupt into violence on July 6 after striking workers illegally blockaded the main gate at the Genuine garment factory and the garment factory had three union leaders arrested on trumped-up felony charges of human confinement, the first time unionists have been charged with a felony since 2001. As the dispute heated up, Poleconoff engaged in shuttle diplomacy, encouraging each side to de-escalate the conflict and reverse its illegal actions. By the end of the day, the union agreed to remove the blockade in exchange for the factory management dropping the felony charges, and both sides pledged to continue negotiating the remaining issues with an eye towards resolving the strike. This case demonstrates the extreme distrust between unions and factory management and factory owners' growing tendency to use the easily manipulated court system rather than the more transparent but toothless Arbitration Council. END SUMMARY.

Labor Dispute Escalates from Strike to Felony Charges  
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12. (U) On June 22, following a failed conciliation attempt by the Kandal provincial Department of Labor, workers from the Genuine garment factory went on strike to protest the dismissal of four factory-level union leaders in connection with a 2004 strike at the factory. As the strike progressed without any resolution in sight, the garment workers blockaded the main factory gate with wooden tables and branches to prevent the factory from shipping out finished products or transporting fabric and trim to other factories in an effort to sub-contract the work. A smaller door, through which people could walk in and out, remained unobstructed.

13. (U) The evening of July 3, three of the four union leaders who protested their termination were arrested; a fourth went into hiding. The three union leaders were charged with human confinement, a felony punishable by three to five years in prison. Factory management alleged that the blockade had trapped 25 Chinese and Taiwanese factory managers in the factory for several days. (COMMENT: While trumped-up misdemeanor charges against union activists are not uncommon, this is the first time since 2001 that union leaders have faced felony charges. END COMMENT.)

Embassy Urges Resolution to Dispute

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¶4. (SBU) Poleconoff, LES Labor Assistant, and FTU Vice President Sam Srey Mom traveled to the factory the morning of July 6 to check on a reported clash between workers and paratroopers. Both factory manager Calvin Yeh and workers told Emboffs that paratroopers in civilian clothes, acting on orders from factory management, had started to remove the blockade early in the morning when there were only 20 workers present. When the workers resisted, pushing and shoving broke out and the soldiers allegedly threatened to use electric batons. (Note: In response to a query from the Defense Attache, the parachute brigade commander said that two soldiers had gone to the factory to check on the wife of one of the soldiers, who was working there. The brigade commander said that no other personnel from his brigade were at the factory. END NOTE.)

¶5. (SBU) Factory manager Calvin Yeh told Poleconoff that the Chinese and Taiwanese managerial staff were able to come and go from the factory, but required soldier escorts to alleviate fears of violence from the workers. Yeh claimed that the four terminated union leaders were troublemakers and that the factory's bottom line was that they could not continue to work at the factory. Poleconoff urged the factory to drop the human confinement charges against the three union leaders, noting that the factory staff were clearly not confined in the factory compound and that factory owners often manipulated the courts to gain an advantage in labor disputes.

¶6. (SBU) Outside the factory, Poleconoff relayed to Sam Srey Mom the factory's insistence on firing the workers and opined that they were not likely to back down on this point. Moreover, the union strikes and blockading the factory gate

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were illegal. While the charges of human confinement were unreasonable, the union leaders were guilty of lesser crimes and, under Cambodian Labor Law, the factory legally had a right to dismiss them. Poleconoff urged the FTU Vice President to compromise, but Sam Srey Mom responded that no compromise was possible.

More Shuttle Diplomacy as Riot Police Deployed  
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¶7. (SBU) Later the same day, Poleconoff and Labor Assistant, this time accompanied by FTU federation president Chea Mony, returned to the garment factory after hearing that riot police had been deployed. On the way to the factory, Poleconoff suggested that, as a way to de-escalate the situation, the FTU president propose removing the blockade in exchange for the factory dropping the human confinement charges against the three union leaders. Chea Mony eventually agreed, saying he would be willing to remove the blockade unilaterally. Upon arrival at the factory, Poleconoff and Labor Assistant observed a larger, angrier crowd of workers (now numbering about 350) and more police--now about 50 officers, including 10 in riot gear with tear gas guns as well as standard-issue sidearms.

¶8. (SBU) Talking privately to factory manager Calvin Yeh, Poleconoff noted that the dispute had reached a critical stage and that a violent confrontation might lead to injured workers and create bad press that would likely reach the factory's buyers in Europe, which could cause buyers to stop ordering from the factory. Yeh responded that the factory was willing to consider dropping the charges against the three union leaders in exchange for the removal of the blockade. He then agreed to negotiate directly with Chea Mony.

I'll Trade You Three Freed Unionists for Removing One Illegal Blockade  
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¶9. (SBU) Chea Mony and FTU Secretary General Mann Seng Hak were ushered into the factory conference room where Calvin Yeh, two unidentified Khmer women, Poleconoff, and Labor Assistant were waiting. Poleconoff began by reminding everyone that the current situation benefited no one and could easily become violent. Both sides had taken illegal actions, bore some of the responsibility, and should compromise in order to resolve the conflict and avoid a violent confrontation.

¶10. (SBU) Negotiations proceeded quickly, with one of the unidentified women taking the lead for the factory. The female factory representative expressed her suspicions that Chea Mony was only here to negotiate a payoff, but Mony assured her that that was not the case. The woman noted that the factory had already prepared paychecks for the workers for the upcoming payday, July 10, but planned to shut the factory after paying the workers, and then later re-open with new staff.

¶11. (SBU) Commenting that a factory closure would hurt both sides, Poleconoff then asked both sides to reverse their illegal actions, by dropping human confinement charges against the three union leaders and removing the blockade. First the factory representative and then Chea Mony agreed to the idea in principle, though the factory representative insisted that the union leaders be left in jail for 30 days to "educate" them. Chea Mony responded that this was unreasonable and that they should be released on July 10 instead. The factory representative agreed, and she and Chea Mony swapped cell phone numbers, agreeing to keep talking and setting a goal of resolving the dispute by July 10.

Blockade Removed; Union and Factory Thank Embassy  
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¶12. (SBU) Calvin Yeh, the two Khmer women, the FTU representatives, and Poleconoff and Labor Assistant walked out of the factory together to the applause of workers, who immediately began dismantling the barricade on orders from Chea Mony. The unidentified woman finally introduced herself

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as Okhna Sheang Chanheng, Director of Heng Development Company. (NOTE: Okhna is a Cambodian honorific, denoting people who have contributed USD 100,000 or more to the ruling CPP. END NOTE.) She was effusive in her thanks to the Embassy for resolving the dispute, noting that even the anti-riot police were unable to remove the barricade.

¶13. (SBU) Speaking over a loud speaker, Chea Mony praised the workers for their courage, told them that they would be paid on July 10, and asked them to trust his decision to remove the blockade, saying that he felt the strike could be ended soon. He did not mention the promised release of the union leaders. In the car on the way back to Phnom Penh, he thanked the embassy for its assistance, noting that the embassy had helped to resolve seemingly intractable labor disputes twice in one week.

¶14. (SBU) COMMENT. While the felony charges made this dispute more serious than other garment sector labor disputes, this case highlights many factors common to strikes across the industry. Lack of communication and extreme distrust between unions and factories, combined with ineffective government attempts at conciliation, mean that disputes often escalate to strikes before serious negotiations are held. Unions are increasingly disappointed by the Arbitration Council, which offers fair but unenforceable rulings and is more and more often being trumped by the easily manipulated court system. (Indeed, it was rather remarkable to watch as the FTU president and the factory owner negotiated how long the three union leaders would stay in jail, with no one doubting that the factory owner had the power to order their release whenever she

wished.) The situation is clearly driving unions and garment factories to seek other solutions--such as the garment sector-wide collective bargaining effort set to begin in August--but it also means that negotiations start from a position of intense distrust and suspicion. END COMMENT.  
MUSSOMELI